

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
5:02-CR-144-BO-2  
5:15-CV-489-BO

BOBBY LEE HAIRSTON, )  
Petitioner, )  
v. )  
UNITED STATES OF AMERICA, )  
Respondent. )

**ORDER**

This matter is before the Court on petitioner's motion to hold his motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255 in abeyance pending opinions in two cases currently before the Fourth Circuit Court of Appeals. *See In re Scott*, No. 15-0291 (4th Cir.); *In re Hubbard*, No. 15-0276 (4th Cir.). Petitioner in his § 2255 motion argues, *inter alia*, that in light of *Johnson v. United States*, 135 S. Ct. 2551 (2015), he is no longer a Guidelines career offender. On January 28, 2016, the court of appeals heard argument in *In re Hubbard*, which briefs address the retroactivity of *Johnson* and the applicability of *Johnson* retroactively to the Sentencing Guidelines career offender designation.

On January 4, 2015, the Office of the Federal Public Defender was appointed to assist petitioner in determining whether he might qualify for post-conviction relief under *Johnson*. [DE 45]. To date, the Office of the Federal Public Defender has not filed a notice of appearance in petitioner's case.

For good cause shown and without objection by the government, petitioner's motion to hold consideration of his § 2255 motion in abeyance [DE 44] is GRANTED. This matter is

STAYED pending resolution of the *Scott* and *Hubbard* matters in the court of appeals. The clerk is DIRECTED to serve again Standing Order 15-SO-2 regarding appointment of counsel in *Johnson* cases on the Office of the Federal Public Defender. Although petitioner's § 2255 motion has been stayed, the public defender shall still file a notice of appearance at its earliest convenience. The government shall notify the Court upon the resolution of the *Scott* and *Hubbard* matters in the court of appeals.

SO ORDERED, this 16 day of February, 2016.

  
TERRENCE W. BOYLE  
UNITED STATES DISTRICT JUDGE